



U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
ENTERED
TAWANA C. MARSHALL, CLERK
THE DATE OF ENTRY IS
ON THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.


United States Bankruptcy Judge

Signed October 21, 2010

Codilis & Stawiarski, P.C.

650 N. Sam Houston Parkway East, Suite 450
Houston, Texas 77060 (281) 925-5200
Facsimile: (281) 925-5300

ATTORNEYS FOR MOVANT

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
WICHITA FALLS DIVISION

IN RE:
LARRY BERT CRANE AND AMY
CHRISTINE CRANE
DEBTORS

HSBC MORTGAGE SERVICES, INC.,
SERVICER FOR BENEFICIAL TEXAS,
INC, ITS SUCCESSORS AND ASSIGNS,
MOVANT

VS.
LARRY BERT CRANE AND AMY
CHRISTINE CRANE AND WALTER
OCHESKEY, TRUSTEE,
RESPONDENTS

§ CASE NO. 08-70481-HDH-13
§
§ CHAPTER 13
§
§ MOTION FOR RELIEF
§ HEARING DATE:
§
§ **October 20, 2010, 10:00am**
§
§
§
§
§
§

AGREED ORDER CONDITIONALLY MODIFYING AUTOMATIC STAY

(51)

CAME ON before the Court for consideration the Motion For Relief From Stay Of Act

Against Property filed by HSBC MORTGAGE SERVICES, INC., SERVICER FOR BENEFICIAL

TEXAS, INC, ITS SUCCESSORS AND ASSIGNS, Movant, and any response of Debtors/Respondents. The Court finding that the parties have reached an agreement conditionally modifying the Automatic Stay of 11 U.S.C. §362 (“Automatic Stay”), it is accordingly:

ORDERED that the Automatic Stay shall remain in effect, except as modified herein. It is further

ORDERED that pursuant to the terms of that one certain Promissory Note executed by Debtors in favor of Movant, secured by a Deed of Trust encumbering the real property more fully described hereinafter, Debtors shall disburse directly to Movant, timely when due, each monthly installment that falls due on or after the first day of November 2010. It is further

ORDERED that Debtors shall modify the Chapter 13 Plan within thirty (30) days following entry of this Order to include the post-petition mortgage installment arrearage in the amount of **\$3,005.58**. Said funds shall be applied to the post-petition mortgage installments for the months of August 2010 through October 2010 at \$486.14 each, plus attorney fees of \$525.00 and costs of \$150.00 and plus payment of the 2009 taxes in the amount of \$872.16. It is further

ORDERED that Movant shall request a refund from the Wilbarger County Tax Office for the taxes paid by Movant in the amount of \$1,418.01. These taxes were applied to the 2007 and 2008 tax years which have already been included in the Chapter 13 Plan and which claims have already been filed for the collection of such. Movant agrees not to collect this amount providing Debtors complete the Chapter 13 plan and receives a discharge wherein the taxes will be paid via a filed claim by the taxing authority and per the Debtors’ plan. It is further

ORDERED that the “Post-Petition Arrearage” specified herein shall constitute an additional secured claim filed by Movant (“Additional Claim”) in the bankruptcy proceeding and is hereby allowed by the Court. If the Chapter 13 plan has been previously confirmed by the Court under 11

U.S.C. Section 1325 (“Confirmed Plan”), Debtor shall promptly modify the Plan, and the Chapter 13 Trustee shall make no distributions to Movant on the Additional Claim until Debtor has filed a modification of the Confirmed Plan pursuant to 11 U.S.C. Section 1329 (“Post-Confirmation Modification”), served the Post-Confirmation Modification on all parties in interest entitled to notice, and obtained an Order from the Court approving the Post-Confirmation Modification. If the Plan has not been previously confirmed by the Court, the Debtor shall promptly modify the Plan prior to confirmation pursuant to 11 U.S.C. Section 1323 to provide for the Additional Claim. It is further

ORDERED that Debtor(s) shall provide to Movant, on or before November 20, 2010, proof of payments made to Movant, but not credited to Debtor(s)’s account. In the event Debtor(s) should provide such proof, Movant shall adjust its records accordingly. It is further

ORDERED that Debtor shall make all Trustee payments according to the Plan. Debtor shall keep all Trustee payments current. It is further

ORDERED that the above referenced mortgage installments and additional payments to bring arrearages current shall be made to the mortgage company at the following address:

HSBC Consumer & Mortgage Lending
636 Grand Regency Blvd.
Brandon, FL 33509

It is further **ORDERED** that if Debtor defaults on any of the terms of this Order, Movant shall mail notice of the default to Debtor by certified mail, return receipt requested, and by regular mail. Unless Debtor cures the default within ten (10) days of the date Movant mails the notice, the Automatic Stay shall be and is hereby ordered lifted with respect to Movant, its assignees and/or successors in interest. Movant shall send Notice of Default to Debtor on two (2) separate occasions only. Upon the third default by the Debtor to remit any of the payments referenced above, the

Automatic Stay shall be ordered lifted with respect to Movant without further notice to Debtor. If Debtor defaults under the terms of this Order and the automatic stay is lifted, Movant and its assignees and/or successors in interest shall be excepted from the Automatic Stay is authorized to enforce its lien and to pursue its statutory and contractual remedies to gain possession of the following described real property:

LOT FIVE (5), BLOCK FOUR (4), OF THE BEAVER HEIGHTS ADDITION TO THE TOWN OF VERNON, WILBARGER COUNTY, TEXAS. TAX MAP OR PARCEL ID NO.: 3003001

Also known as:
2902 ANTELOPE
VERNON, TX 76384

It is further **ORDERED** that in the event this case is converted to a Chapter 7 of the Bankruptcy Code, the automatic stay shall lift without further notice except to the extent the property described above is non-exempt property, and any and all arrearages owed to Movant by Debtors shall become due and payable immediately. It is further

ORDERED that Movant shall give notice to the Trustee immediately upon foreclosure and that Movant shall amend or withdraw its claim herein within twenty (20) days after foreclosure. It is further

ORDERED that in the event this case is dismissed and not reinstated, the agreements reached between the parties in this order are cancelled, of no further effect, and neither party shall be bound by the agreements made herein

END OF ORDER

* The signature of Movant's counsel shown below is an affirmative representation to the Court that Movant has complied with Bankruptcy Rule Number 4001.

APPROVED AS TO FORM AND ENTRY REQUESTED:

Codilis & Stawiarski, P.C.

By: /s/ Lisa L. Cockrell *
Lisa L. Cockrell SBOT 24036379
Robert L. Negrin SBOT 1486550
Mary M. Speidel SBOT 18908400
Angela K. Randermann SBOT 24029787 (31688)
650 N. Sam Houston Parkway East, Suite 450
Houston, Texas 77060 (281) 925-5200
Facsimile: (281) 925-5300
ATTORNEYS FOR MOVANT

/s/ Monte Jay White by permission
MONTE JAY WHITE
1106 BROOK AVENUE
WICHITA FALLS, TX 76301
ATTORNEY FOR DEBTORS

44-10-4389
XXXXX80949
CRANE, LARRY BERT
Conventional